

Memorandum

To: Chairman and Commissioners

Date: November 16, 2000

From: Robert I. Remen

File No: R 1
BOOK ITEM 4.2
ACTION

Ref: NATIVE AMERICAN TRANSPORTATION ISSUES

Over the past 16 months, the Commission has held three workshops with Native American tribes in Cabazon (Riverside County) on September 15, 1999, at the Jackson Rancheria (Amador County) on January 12, 2000, and in Eureka (Humboldt County) on April 12, 2000. The objective of the meetings was to define tribal transportation issues and ways to better integrate the land use policies and transportation needs of the Tribal governments into the state and regional transportation planning and programming process. The interaction at the meetings was also meant to strengthen the Government-to-Government relationships between the State, Tribal Governments, and regional transportation planning agencies, and to promote the partnership necessary to provide a safe and comprehensive transportation system that meets the needs of all our respective communities.

During the year 2000, the Commission has played an active role in supporting Native American transportation initiatives. The Commission has requested support from California's Congressional delegation for an increase in the share of federal Indian Reservation Road program funds distributed to California Tribes, has adopted policies and guidelines to include Tribal governments in the regional transportation planning process, and has encouraged programming of transportation projects to improve access to tribal lands.

Issues and Actions from the Native American Transportation Workshops

The following issues and Commission actions have come out of the three meetings on Native American transportation issues held September 15, 1999 at Cabazon in Riverside County, January 12, 2000 at Jackson Rancheria in Amador County, and April 12, 2000 at Eureka in Humboldt County.

1. **Commitment to work on Tribal issues through a Government-to-Government process** - TEA-21 requires that transportation planning activities among Indian Tribal Governments, the Bureau of Indian Affairs (BIA), Federal Highway Association (FHWA), Federal Transit Administration (FTA), States and local governments be performed on a Government-to-Government basis. Also, the FHWA and FTA require the State, Regional Planning Organizations, and Metropolitan Planning Organizations to consult with and consider the interests of Indian Tribal Governments in the development of transportation plans and programs, and with respect to each area of the State under the jurisdiction of an Indian Tribal government, the program shall be developed in consultation with the Tribal government and the Secretary of the Interior. (23 U.S.C.,

Section 135(f)(1)(B)(iii)). The Commission and Caltrans have expressed a commitment to work with the Tribes on transportation issues through the Government-to-Government process.

The Commission, Caltrans, and regional transportation planning agencies that attended the workshops committed to:

- a. increase sensitivity to confidentiality of contents and location of tribal cultural sites;
 - b. integrate tribal environmental concerns into environmental documents and their review process;
 - c. increase flexibility to work toward desired final products and outcomes in a way compatible with tribal processes rather than being strictly tied to existing Caltrans procedures;
 - d. include Tribal consultation in the project decision-making process as well as in the planning process;
2. **Consultation** – It was suggested that discussion and consultation on transportation policies at the state level should be between the existing BIA Advisory Committees, which are composed of elected Tribal leaders, and the Secretary of Business, Transportation and Housing, the California Transportation Commission, and the Director of Caltrans. The BIA Advisory Committees are the appropriate forum for developing unified positions among the Tribes on issues to be negotiated with the State. At the project level, the most effective coordination would be between individual Tribes, or coalitions of Tribes, and the Regional Transportation Planning Agency and Caltrans District.
3. **Federal Funding** – The federal Indian Reservation Roads (IRR) Program provides \$275 million a year nationwide for improvements that address transportation issues specific to the Tribes, with \$1.7 million (0.6%) of these funds available for the 107 federally recognized Tribes in California. The Commission’s SR 8 Repot identified \$275 million of road improvement needs for access to and circulation within Tribal lands over the next ten years. Tribal representatives asked the Commission to help secure more of the federal funds by supporting their requests to; (1) increase the share of IRR funds allocated to California Tribes to 9.1962% of the program total (California’s minimum guarantee percentage of federal highway funds), and (2) guarantee 100% Obligational Authority for the IRR Program.
 - a. The Commission has communicated to the California Congressional delegation and the Bureau of Indian Affairs, its support for an increased share of federal Indian Reservation Roads Program funding going to Tribes in California, specifically increasing the share of IRR funds allocated to California Tribes to 9.2% of the program total, and guaranteeing 100% Obligational Authority (OA) for the IRR Program.
4. **Indian Reservation Road Program “Lop-Off”** - The Commission made a commitment to the Tribes to support 100% Obligational Authority for the IRR Program. Another issue that arose was the identification of the disposition, amount, and accessibility of the funds lost as a result of less than 100% IRR Program OA, and to work with the federal government and Caltrans to make these funds available to the Tribes.

- a. Caltrans has determined that the OA limitation on the IRR Program resulted in the loss of \$1,967,652 to California tribes in the first three years of TEA-21 (\$452,341 in FY1998, \$719,100 in FY1999, and \$796,211 in FY2000).
 - b. Vice Chairman Kellogg and Commissioner Wolf committed to work to develop a process to make funding lost by California tribes as a result of OA limitations on the IRR Program, available to tribal transportation projects through a state program.
5. **Bureau of Indian Affairs (BIA)** - Tribes indicated that there is a misconception that the Bureau of Indian Affairs can take care of all Tribal issues. They pointed out the limited resources the BIA and Tribes have for construction and maintenance of Tribal roads. This included very small amounts for planning from \$2-\$8,000 per year for Tribes, less than \$700,000 for maintenance, and approximately \$5 million for construction for all 107 Tribes in the State.
6. **State and Local Funding** – According to the FHWA there is no legal impediment that would prohibit the use of federal funds programmed by the State or regional agencies in the State Transportation Improvement Program (STIP) on projects on Tribal lands. Tribes were encouraged to participate in the planning and programming process at the local level where programming decisions for 75% of STIP funding are made. Participation in the local process is particularly important seeking project funding from county transportation sales taxes.
 - a. The Commission stated in its adoption of the Regional Transportation Plan Guidelines its support of funding transportation projects accessing tribal lands through state and local transportation programs.
7. **Planning** - The Commission adopted Regional Transportation Plan (RTP) Guidelines which emphasize the federal and state requirement to consult with and consider the interests of Indian Tribal Governments in the development of transportation plans and programs.
 - a. This requirement will be enforced by accepting only Regional Transportation Improvement Programs for programming in the 2002 STIP which address the requirements in the RTP Guidelines.
8. **Programming** - The Commission committed to work with Caltrans, Lassen County Transportation Commission, and the BIA to improve the road connection between Susanville Rancheria and State Route 139.
 - a. At the July 2000 Commission meeting, a STIP amendment to program the Spring Ridge Road project was presented to the Commission. This project is jointly funded by Caltrans, Lassen County Transportation Commission, and the BIA.
9. **Additional Caltrans Project Development Assistance** – The Commission communicated to the Caltrans Director support for additional Caltrans personnel to meet and work with Tribes to assist

in identifying projects and preparing the necessary studies, to get projects in the BIA transportation plans funded through the State Transportation Improvement Programs.

10. **Caltrans District Native American Advisory Committees** - Caltrans District 11 (San Diego) Director Gary Gallegos reported that he is creating a Native American Advisory Committee for his district. The Tribes requested that the Caltrans Director direct other districts to do the same.
11. **Caltrans Training and Assistance Programs** - The Commission communicated to the Caltrans Director support for additional Caltrans personnel to meet and work with Tribes to assist in training and development of transportation plans.
 - a. Caltrans has committed to hold a Tribal Transportation Planning Academy as an orientation on working within the Caltrans process. This academy will provide information to tribes on state and federal processes for planning, programming and implementation of projects.
 - b. Caltrans agreed to assist tribes in securing funding from sources currently available to tribes for transportation projects including BIA planning funds, Transportation Enhancement Activities (TEA) funds, the 10% ITIP funding for economic development, and other federal discretionary grant funds.
 - c. Caltrans has modified highway signage policies to allow tribes destination signage. A list of the Caltrans District contacts was provided.
 - d. Caltrans was asked to include information on TERO requirements in Requests for Bids on Caltrans projects and to ensure that contractors are aware of the Indian workforce.
 - e. Caltrans District 11 (San Diego) is working with some Tribes on a training program for the use of heavy equipment in road construction.
 - f. Caltrans is working with the Department of General Services and the Tribes to allow Tribes to purchase or lease Caltrans equipment.
12. **Regional Transportation Planning Agency Representation** - The Tribes asked that state law be amended to give the Tribes the same standing and eligibility as cities and counties in transportation planning and programming. Tribal members pay local and state sales and fuel taxes and, as an equity issue, should be included policy bodies that determine the use of the tax revenues. They proposed a demonstration project to form a Reservation Regional Transportation Authority in Southern California that would cooperate with the regional transportation planning agencies, but would also have direct access to the Commission for programming projects.
 - a. The Tribes will pursue legislation to designate tribal governments as members of regional transportation planning agency boards. The Hoopa Valley Tribe in Humboldt County is the only tribe that currently has this authority (Government Code Section 65101.1);
13. **CTC Appointment** - The Commission has voiced support to the Governor for a Tribal representative to be appointed to the Commission.

14. **Support for a Tribal Desk at the Governor's Level** - Tribes requested support to have an Indian desk at the Governor's level. The Commission indicated support of this concept.

Tribes Attending Meetings

Listed below are the 34 Tribes that sent representatives to one or more of the three Native American Transportation Workshops. Also listed are the Tribal Organizations that sent representatives to these meetings. Taken together, these organizations represent all 106 Tribes in California.

Northern California

- Cahto Tribe
- Bear River Band of Rohnerville Rancheria
- Blue Lake Rancheria
- Hoopa Valley Tribe
- Karuk Tribe
- Resighini Rancheria
- Susanville Indian Rancheria
- Table Bluff Rancheria
- Trinidad Rancheria
- Yurok Tribe of California

Southern California

- Barona Reservation
- Cabazon
- Cahuilla Band of Indians
- Chemehuvi Indian Reservation
- Jamul Band of Mission Indians
- Los Coyotes
- Morongo Band of Mission Indians
- Rincon Reservation
- Santa Rosa Rancheria
- Santa Ysabel Reservation
- Torres Martinez Desert Cahuilla

Central California

- Bishop Indian Reservation
- Coyote Valley Reservation
- Dry Creek Rancheria
- Hopland Band of Pomo Indians
- Guidiville Rancheria
- North Fork Rancheria
- Paskenta Band of Nomlaki Indians

- Redwood Valley Reservation
- Round Valley Tribes
- Scotts Valley Tribe
- Shingle Springs Rancheria
- Tule River Indian Reservation
- United Auburn Indian Community

Tribal Organizations present:

- Reservation Transportation Authority (represents 23 Tribes in southern California).
- Central California Policy Committee (represents 52 Tribes in central California).
- Sacramento Regional Area Committee (represents 106 Tribes in the state).
- California Indian Lands Office (statewide organization).
- Caltrans Native American Advisory Committee (statewide organization).
- Inter-Tribal Council of California (26 Tribes statewide).
- American Indian State Employees Association (statewide organization).
- Native American Negotiating Rule Making Committee (represents all Tribes in California during the national meetings held throughout the United States).